

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow. After amending the claims as set forth above, claims 20-22 and 25-45 are now pending in this application.

Claim Rejections – 35 U.S.C. § 102

On page 2 of the Office Action, the Examiner rejected Claims 20-23 and 40 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,586,649 titled “Polyurethane Foam Structures with Integral Skin of Improved Properties and Method of Making” issued on June 22, 1971 to Cobbledick (“Cobbledick”).

The Examiner stated that:

Cobbledick’s invention relates to polyurethane foam. Polyurethane foam is useful as a pad for the seat of an upholstered chair [col. 1, ll. 67-68; col. 14, ll. 30-31]. The foam has open and/or closed cell [col. 1, ll. 52-53; col. 13, ll. 50]. Shaped foam structure is provided with a tough outer protective skin (protective layer). The skin can be formed by spraying or coating with a suitable film forming composition on the foam, or by covering the interior surface of a mold prior to forming the polyurethane foam [col. 2, ll. 2-15]. Useful skin include vinyl plastic sheet formed from plastisol [col. 2, ll. 17]. (Paragraph 2 of the Office Action.)

Cobbledick is directed to a “polyurethane foam structure with integral skin” and discloses polyurethane foams used in upholstered sofas and chairs with tough outer films or skins in which the skin can be created by spraying or otherwise coating the foam products with a suitable film-forming composition or by covering the interior surface of a shaping mold into which the foam-forming material is cast. (see Cobbledick at col. 1, line 65 to col. 2, line 21).

Claim 20 is in independent form and recites an “upholstery part” comprising, in combination with other elements, “wherein the protective layer contains polyvinyl acetate that can be applied in liquid form and cured.” Claims 21-22 depend from independent Claim 20.

Cobbledick does not identically disclose an “upholstery part” comprising, among other elements, “wherein the protective layer contains polyvinyl acetate that can be applied in liquid form and cured” as recited in independent Claim 20. The rejection of Claim 20 over Cobbledick is improper. Claim 20 is patentable over Cobbledick.

Dependent Claims 21-22, which depend from independent Claim 20, are also patentable. See 35 U.S.C. § 112 ¶ 4.

Dependent claim 23 has been canceled, which renders the rejection of this claim moot.

Claim 40 is in independent form and recites an “upholstery part” comprising, in combination with other elements, “wherein the protective coating comprises polyvinyl acetate.”

Cobbledick does not identically disclose an “upholstery part” comprising, among other elements, “wherein the protective coating comprises polyvinyl acetate” as recited in independent Claim 40. The rejection of Claim 40 over Cobbledick is improper. Claim 40 is patentable over Cobbledick.

Applicant respectfully requests withdrawal of the rejection of Claims 20-23 and 40 under 35 U.S.C. § 102(b).

Claim Rejections – 35 U.S.C. § 103(a)

On page 3 of the Office Action the Examiner rejected Claims 24-25 and 30 as being obvious over U.S. Patent No. 3,586,649 titled “Polyurethane Foam Structures with Integral Skin of Improved Properties and Method of Making” issued on June 22, 1971 to Cobbledick (“Cobbledick”) in view of U.S. Patent No. 3,258,511 titled “Process for the Manufacture of Upholstery” to McGregor (“McGregor”) under 35 U.S.C. § 103(a).

The Examiner acknowledged that Cobbledick does not disclose polyvinyl acetate by stating that: “Cobbledick is silent about the vinyl plastic as polyvinyl acetate.” (Paragraph 3 of the Office Action.)

The Examiner stated that: “However, McGregor’s [sic] invention relates to polyurethane foam for upholstering furniture [col. 1, ll. 16-18]. An impervious film is provided over the porous surface of the foam [col. 1, ll. 69-72]. Useful films include homopolymer of vinyl acetate [col. 2, ll. 58-63].” (Paragraph 3 of the Office Action.)

The Examiner concluded that: “It would have been an obvious selection to one of ordinary skill in the art to use polyvinyl acetate as the vinyl plastic in Cobbledick’s foam for upholstering.” (Paragraph 3 of the Office Action.)

Cobbledick is directed to a “polyurethane foam structure with integral skin” and discloses polyurethane foams used in upholstered sofas and chairs with tough outer films or

skins in which the skin can be created by spraying or otherwise coating the foam products with a suitable film-forming composition or by covering the interior surface of a shaping mold into which the foam-forming material is cast. (see Cobbledick at col. 1, line 65 to col. 2, line 12).

McGregor is directed to a “process for the manufacture of upholstery” and discloses an impervious film provided to cover the side of the fabric of a synthetic resin foam cushion in which the film is a self-supporting film or sheet or laminated as a coating. (see McGregor at col. 1, line 65 to col. 2 line 33 of McGregor).

Claim 20 is in independent form and recites an “upholstery part” comprising, in combination with other elements, “wherein the protective layer contains polyvinyl acetate that can be applied in liquid form and cured.” Claims 25 and 30 depend from independent Claim 20.

The “upholstery part” recited in independent Claim 20 (as amended) would not have been obvious in view of Cobbledick, alone or in any proper combination with McGregor under 35 U.S.C. § 103(a). Cobbledick alone or in any proper combination with McGregor does not disclose, teach or suggest an “upholstery part” comprising, in combination with other elements, “wherein the protective layer contains polyvinyl acetate that can be applied in liquid form and cured.” To transform the polyurethane foam structure of Cobbledick and the vinyl acetate film of McGregor into an “upholstery part” (as recited in Claim 20) would require still further modification, and such modification is taught only by the Applicant’s own disclosure. The suggestion to make the combination of Cobbledick and McGregor has been taken from the Applicant’s own specification (using hindsight), which is improper. For example, McGregor does not even teach that polyvinyl acetate is applied to a foam structure in liquid form and cured but only discloses a self supporting or laminate film.

The upholstery part recited in independent Claim 20, considered as a whole, would not have been obvious in view of Cobbledick and/or McGregor. The rejection of Claim 20 and its dependent Claim 25 and 30 over Cobbledick in view of McGregor under 35 U.S.C. § 103(a) is improper. Therefore, Claim 20 is patentable over Cobbledick in view of McGregor.

Dependent Claims 25 and 30, which depend from independent Claim 20, are also patentable. See 35 U.S.C. § 112 ¶ 4.

Dependent claim 24 has been canceled, which renders the rejection of this claim moot.

Applicant respectfully requests withdrawal of the rejection of Claims 20, 25, and 30 under 35 U.S.C. § 103(a).

Conclusion

It is submitted that each outstanding objection and rejection to the Application has been overcome, and that the Application is in a condition for allowance. The Applicant requests consideration and allowance of all pending Claims 20-22 and 25-45.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date 1/14/2008

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5349
Facsimile: (202) 672-5399

By Matthew J. Kremer

Matthew J. Kremer
Attorney for Applicant
Registration No. 58,671